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Notice of Allowability

Application No.

10/800,554

Examiner

Nahid Amiri

Applicant(s)

VONBAMPUS, RAY E.

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 15 March 2004.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☒ The drawings filed on 15 March 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Election/Restrictions

The inventions are distinct, each from the other because of the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4, drawn to method of finishing a gypsum drywall installation, classified in class 52, subclass 741.13.
- II. Claims 5-12, drawn to apparatus continuous strand of fibrous cellulosic material for combining with drywall joint compound, classified in class 447, subclass 391.
- III. Claim 13, drawn to apparatus of an air pressure operated spray gun for drywall mud, classified in class 239, subclass 415.

The inventions in this relationship are distinct each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case a method could be used to filled the joint between wooden panels, since inventions I and II are related as process and apparatus. Inventions I regarding the method of finishing a gypsum drywall installation and invention II regards to apparatus continuous strand of fibrous cellulosic material for combining with drywall joint compound. Therefore, these are two separate inventions with different modes of operation, functions (MPEP § 806.05, MPEP § 808.01) are patentably distinct as shown by their mutually exclusive characteristics.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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During a telephone conversation with Mr. Enrique G. Estevez on February 10, 2005 a provisional election was made to group I claims 1-4 without traverse to prosecute the invention of a method of finishing a gypsum drywall installation. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-13 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Enrique G. Estevez on February 14, 2005.

The application has been amended as follows: Claims 5-13 canceled.

Allowable Subject Matter

Claims 1-4 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


US Patent No. 4,522,004	Evans et al.
US Patent No. 5,732,520	Maietta
US Patent No. 3,390,003	Cooper
US Patent No. 2,078,049	Benedict
US Pub. No.: 2004/0154264 A1	Colbert


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US Pub. No.: 2004/0211139 A1 Peng

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-6839. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nahid Amiri
Examiner
Art Unit 3635
February 14, 2005


Carl D. Friedman
Supervisory Patent Examiner
Group 3600